

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT L. WEGMAN,

Petitioner,

v.

CALVIN E. WEST,

Respondent.

DECISION AND ORDER

04-CV-312S

1. On April 21, 2004, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. On September 24, 2007, this Court issued a Decision and Order denying the Petition for Writ of Habeas Corpus.

2. On October 22, 2007, Petitioner filed a request that this Court issue a Certificate of Appealability. (Docket No. 18).

IT HEREBY IS ORDERED, that because the issues raised in the Petition are not the type of issues that a court could resolve in a different manner, and because these issues are not debatable among jurists of reason, this Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right, 28 U.S.C. § 2253(c)(2), and accordingly, the Certificate of Appealability is DENIED.

FURTHER, that a Certificate of Appealability shall not issue.

FURTHER, that this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal would not be taken in good faith.

FURTHER, that Petitioner's request for a Certificate of Appealability (Docket No. 18) is DENIED.

SO ORDERED.

Dated: November 8, 2007
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge